

BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

THOMAS EDWARD HART
257 S. Fair Oaks Ave. #210
Pasadena, CA 91105-2050

Certified Public Accountant License No.
56052

Respondent.

Case No. AC-2010-30

OAH Case No. L-2011 031309

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 29, 2013.

It is so ORDERED May 30, 2013.



FOR THE CALIFORNIA BOARD OF
ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 HELENE E. SWANSON
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Attorneys for Complainant
7

8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 **THOMAS EDWARD HART**
12 **257 S. Fair Oaks Ave. #210**
13 **Pasadena, CA 91105-2050**

14 **Certified Public Accountant License No.**
56052

15 Respondent.

Case No. AC-2010-30

OAH Case No. L-2011031309

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16
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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
entitled proceedings that the following matters are true:

19 **PARTIES**

20
21 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of
22 Accountancy. She brought this action solely in her official capacity and is represented in this
23 matter by Kamala D. Harris, Attorney General of the State of California, by Helene E. Swanson,
24 Deputy Attorney General.

25 2. Respondent Thomas Edward Hart (Respondent) is represented in this proceeding by
26 attorney Mary E. Work, whose address is:

27 1334 Park View Avenue, Suite 100

28 Manhattan Beach, CA 90266

3. On or about May 11, 1990, the California Board of Accountancy issued Certified Public Accountant License No. 56052 to Thomas Edward Hart (Respondent). The license was in full force and effect at all times relevant hereto, with the exception of the period of time when it was expired from September 1, 2008 to March 28, 2009, and has been renewed through August 31, 2014.

JURISDICTION

4. Accusation No. AC-2010-30 was filed before the California Board of Accountancy (CBA/Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 17, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of the First Amended Accusation No. AC-2010-30 is attached as **Exhibit A** and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. AC-2010-30. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 12. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the CBA may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 **IT IS HEREBY ORDERED** that Certified Public Accountant License No. 56052 issued to
6 Respondent Thomas Edward Hart (Respondent) is revoked. However, the revocation is stayed
7 and Respondent is placed on probation for three (3) years, on the following terms and conditions:

8 1. **Obey All Laws.** Respondent shall obey all federal, California, other states' and local
9 laws, including those rules relating to the practice of public accountancy in California.

10 2. **Submit Written Reports.** Respondent shall submit, within ten (10) days of
11 completion of the quarter, written reports to the Board on a form obtained from the Board. The
12 Respondent shall submit, under penalty of perjury, such other written reports, declarations, and
13 verification of actions as are required. These declarations shall contain statements relative to
14 Respondent's compliance with all the terms and conditions of probation. Respondent shall
15 immediately execute all release of information forms as may be required by the Board or its
16 representatives.

17 3. **Personal Appearances.** Respondent shall, during the period of probation, appear in
18 person at interviews/meetings as directed by the Board or its designated representatives, provided
19 such notification is accomplished in a timely manner.

20 4. **Comply With Probation.** Respondent shall fully comply with the terms and
21 conditions of the probation imposed by the Board and shall cooperate fully with representatives
22 of the Board in its monitoring and investigation of the Respondent's compliance with probation
23 terms and conditions.

24 5. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice
25 investigation of the Respondent's professional practice. Such a practice investigation shall be
26 conducted by representatives of the Board, provided notification of such review is accomplished
27 in a timely manner.

28 6. **Comply With Citations.** Respondent shall comply with all final orders resulting

1 from citations issued by the Board of Accountancy.

2 **7. Tolling of Probation For Out-of-State Residence/Practice.** In the event
3 Respondent should leave California to reside or practice outside this state, Respondent must
4 notify the Board in writing of the dates of departure and return. Periods of non-California
5 residency or practice outside the state shall not apply to reduction of the probationary period, or
6 of any suspension. No obligation imposed herein, including requirements to file written reports,
7 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise
8 affected by such periods of out-of-state residency or practice except at the written direction of the
9 Board.

10 **8. Violation of Probation.** If Respondent violates probation in any respect, the Board,
11 after giving Respondent notice and an opportunity to be heard, may revoke probation and carry
12 out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is
13 filed against Respondent during probation, the Board shall have continuing jurisdiction until the
14 matter is final, and the period of probation shall be extended until the matter is final.

15 **9. Completion of Probation.** Upon successful completion of probation, Respondent's
16 license will be fully restored.

17 **10. Continuing Education Courses.** Respondent shall complete 24 hours of
18 professional education courses as specified by the Board or its designee at the time of
19 Respondent's first probation appearance. The professional education courses shall be completed
20 within a period of time designated and specified in writing by the Board or its designee, which
21 time-frame shall be incorporated as a condition of this probation. This shall be in addition to the
22 continuing education requirements for relicensing.

23 Failure to satisfactorily complete the required courses as scheduled or failure to complete
24 same no later than 100 days prior to the termination of probation shall constitute a violation of
25 probation.

26 **11. Cost Reimbursement.** Respondent shall reimburse the Board \$13,000.00 for its
27 investigation and prosecution costs. The payment shall be made as follows: in quarterly
28 payments (due with quarterly written reports); the final payment being due one year before

1 probation is scheduled to terminate.

2 12. **Restricted Practice.** During probation, Respondent shall not engage in and shall be
3 prohibited from performing any attestation services, including audits.

4 **IT IS HEREBY FURTHER ORDERED** that:

5 1. **Restricted Practice.** After the completion of probation, Respondent shall be
6 **permanently prohibited** from engaging in and performing any attestation services, including
7 audits. This condition shall continue until such time, if ever, Respondent successfully petitions
8 the Board for the reinstatement of his ability to perform attestation services. Respondent
9 understands and agrees that the Board is under no obligation to reinstate Respondent's ability to
10 perform attestation services, that the Board has made no representations concerning whether any
11 such reinstatement might occur, and that the decision to reinstate is within the sole discretion of
12 the Board.

13 2. **Full Compliance.** Respondent understands and agrees that this Stipulated
14 Settlement and Disciplinary Order as a resolution to the charges in Accusation No. AC-2010-30 is
15 based upon, *inter alia*, Respondent's full compliance with Paragraphs 1 of this Order (Restricted
16 Practice). If Respondent fails to satisfy this condition, he agrees that the Board can file an
17 accusation against him for unprofessional conduct based on his failure to comply with
18 Paragraph 1 as an independent basis for disciplinary action, pursuant to Business and Professions
19 Code section 5100. In addition, Respondent consents that the Board may enforce Paragraph 1 in
20 any court of competent jurisdiction (including an administrative court) to enjoin him, temporarily
21 and/or permanently, from violating Paragraph 1, and may seek any sanctions therein as allowed
22 by law.

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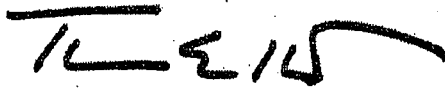
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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Mary E. Work. I understand the stipulation and the effect it will
4 have on my Certified Public Accountant License. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the California Board of Accountancy.

7
8 DATED: April 30, 2013


9 THOMAS EDWARD HART
Respondent

10 I have read and fully discussed with Respondent Thomas Edward Hart the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13
14 DATED: 5/8/13


15 MARY E. WORK
16 Attorney for Respondent

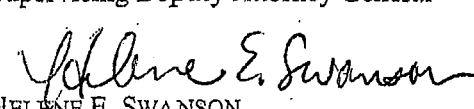
17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the California Board of Accountancy of the Department of
20 Consumer Affairs.

21 Dated: 5/10, 2012

Respectfully submitted,

22 KAMALA D. HARRIS
23 Attorney General of California
24 GREGORY J. SALUTE
Supervising Deputy Attorney General


25 HELENE E. SWANSON
26 Deputy Attorney General
27 Attorneys for Complainant

28 LA2010503139; 60689161.doc

Exhibit A

Accusation No. AC-2010-30

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2 GREGORY J. SALUTE
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Case No. AC-2010-30

11 **THOMAS EDWARD HART**
12 257 S. Fair Oaks Ave. #210
13 Pasadena, CA 91105-2050

FIRST AMENDED ACCUSATION

14 **Certified Public Accountant License No.**
56052

15 and

16 **HIGHPOINT PARTNERS, LLP**
17 257 S. Fair Oaks Ave. #210
Pasadena, CA 91105-2050

18 Certified Public Accountancy Partnership
19 Certificate No. PAR 6935

20 Respondents.

21 Complainant alleges:

22 **PARTIES**

- 23 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as
24 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.
25 2. On or about May 11, 1990, the California Board of Accountancy issued Certified
26 Public Accountant License Number 56052 to Thomas Edward Hart. The License expired on
27 September 1, 2008 and, effective March 29, 2009, was renewed through August 31, 2012. The
28

1 license was in full force and effect at all times relevant to the charges brought herein, with the
2 exception of the period of time when it was expired from September 1, 2008 to March 28, 2009.

3 3. On or about December 8, 2004, the California Board of Accountancy issued Certified
4 Public Accountancy Partnership Certificate No. 6935 to Highpoint Partners, LLP. The certificate
5 was in full force and effect at all times relevant to the charges brought herein, and has been
6 renewed and is valid for the period of time from January 1, 2011 through December 31, 2012.
7 (Thomas Edward Hart and Highpoint Partners, LLP shall be referred to herein as "Respondents").

8 JURISDICTION

9 4. This Accusation is brought before the California Board of Accountancy (Board),
10 Department of Consumer Affairs, under the authority of the following laws. All section
11 references are to the Business and Professions Code unless otherwise indicated.

12 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
13 surrender or cancellation of a license during the period within which the license may be renewed,
14 restored, reissued or reinstated shall not deprive the Board of jurisdiction to proceed with a
15 disciplinary action.

16 6. Section 5050 states:

17 "(a) Except as provided in subdivision (b) and (c) of this section, in subdivision (a) of
18 Section 5054, and in Section 5096.12, no person shall engage in the practice of public
19 accountancy in this state unless the person is the holder of a valid permit to practice public
20 accountancy issued by the board or a holder of a practice privilege pursuant to Article 5.1
21 (commencing with Section 5096)."

22 7. Section 5062 of the Code provides that a licensee shall issue a report which conforms
23 to professional standards upon completion of a compilation, review or audit of financial
24 statements.

25 8. Section 5097 provides as follows:

26 "(a) Audit documentation shall be a licensee's records of the procedures applied, the tests
27 performed, the information obtained; and the pertinent conclusions reached in an audit
28 engagement. Audit documentation shall include, but is not limited to, programs, analyses,

1 memoranda, letters of confirmation and representation, copies or abstracts of company
2 documents, and schedules or commentaries prepared or obtained by the licensee.

3 (b) Audit documentation shall contain sufficient documentation to enable a reviewer with
4 relevant knowledge and experience, having no previous connection with the audit engagement, to
5 understand the nature, timing, extent, and results of the auditing or other procedures performed;
6 evidence obtained, and conclusions reached, and to determine the identity of the persons who
7 performed and reviewed the work.

8 (c) Failure of the audit documentation to document the procedures applied, tests performed,
9 evidence obtained, and relevant conclusions reached in an engagement shall raise a presumption
10 that the procedures were not applied, tests were not performed, information was not obtained, and
11 relevant conclusions were not reached. This presumption shall be a rebuttable presumption
12 affecting the burden of proof relative to those portions of the audit that are not documented as
13 required in subdivision (b). The burden may be met by a preponderance of the evidence.

14 (d) Audit documentation shall be maintained by a licensee for the longer of the following:

15 (1) The minimum period of retention provided in subdivision (e).

16 (2) A period sufficient to satisfy professional standards and to comply with applicable laws
17 and regulations.

18 (e) Audit documentation shall be maintained for a minimum of seven years which shall be
19 extended during the pendency of any board investigation, disciplinary action, or legal action
20 involving the licensee or the licensee's firm. The board may adopt regulations to establish a
21 different retention period for specific categories of audit documentation where the board finds
22 that the nature of the documentation warrants it.

23 (f) Licensees shall maintain a written documentation retention and destruction policy that
24 shall set forth the licensee's practices and procedures complying with this article."

25 9. Section 5100 states:

26 "After notice and hearing the board may revoke, suspend, or refuse to renew any permit or
27 certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing
28

1 with Section 5080), or may censure the holder of that permit or certificate for unprofessional
2 conduct that includes, but is not limited to, one or any combination of the following causes:

3
4 (c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or
5 different engagements, for the same or different clients, or any combination of engagements or
6 clients, each resulting in a violation of applicable professional standards that indicate a lack of
7 competency in the practice of public accountancy or in the performance of the bookkeeping
8 operations described in Section 5052.

9
10 (e) Violation of Section 5097.

11
12 (g) Willful violation of this chapter or any rule or regulation promulgated by the board
13 under the authority granted under this chapter."

14 REGULATORY PROVISIONS

15 10. California Code of Regulations, title 16, Section 58, states:

16 "Licensees engaged in the practice of public accountancy shall comply with all applicable
17 professional standards, including but not limited to generally accepted accounting principles and
18 generally accepted auditing standards."

19 11. California Code of Regulations, title 16, Section 68.2, states:

20 "(a) To provide for the identification of audit documentation, audit documentation shall
21 include an index or guide to the audit documentation which identifies the components of the audit
22 documentation.

23 (b) In addition to the requirements of Business and Professions Code Section 5097(b), audit
24 documentation shall provide the date the document or working paper was completed by the
25 preparer(s) and any reviewer(s), and shall include the identity of the preparer(s) and any
26 reviewer(s).

27 (c) Audit documentation shall include both the report date and the date of issuance of the
28 report."

1 12. California Code of Regulations, title 16, Section 87, states:

2 "(a) 80 Hours.

3 As a condition for renewing a license in an active status, a licensee shall complete at least
4 80 hours of qualifying continuing education as described in Section 88 in the two-year period
5 immediately preceding license expiration, and meet the reporting requirements described in
6 Section 89(a). A licensee engaged in the practice of public accountancy as defined in Section
7 5051 of the Business and Professions Code is required to hold a license in an active status. No
8 carryover of continuing education is permitted from one license renewal period to another."

9
10 (d) Accounting and Auditing Continuing Education Requirement.

11 A licensee who engages in planning, directing, performing substantial portions of the work,
12 or reporting on an audit, review, compilation, or attestation service, shall complete 24 hours of the
13 80 hours of continuing education required pursuant to subsection (a) in the course subject matter
14 pertaining to financial statement preparation and/or reporting (whether such statements are
15 prepared on the basis of generally accepted accounting principles or other comprehensive bases of
16 accounting), auditing, reviews, compilations, industry accounting, attestation services, or
17 assurance services. This continuing education shall be completed in the same two-year license
18 renewal period as the report is issued. If no report is issued because the financial statements are
19 not intended for use by third parties, the continuing education shall be completed in the same two-
20 year license renewal period as the financial statements are submitted to the client.

21 (e) A licensee who must complete continuing education pursuant to subsections (c) and/or
22 (d) of this section shall also complete an additional eight hours of continuing education
23 specifically related to the detection and/or reporting of fraud in financial statements. This
24 continuing education shall be part of the 80 hours of continuing education required by subsection
25 (a), but shall not be part of the continuing education required by subsections (c) or (d).

26
27 (g) Failure to Comply.
28

1 A licensee's willful failure to comply with the requirements of this section shall constitute
2 cause for disciplinary action pursuant to Section 5100(g) of the Accountancy Act."

3 13. California Code of Regulations, title 16, Section 87.7, states:

4 "(a) In order to renew a license in an active status a licensee shall, within the six years
5 preceding the license expiration date, complete a continuing education course on the provisions of
6 the Accountancy Act and the Board of Accountancy Regulations, application to current practice,
7 and other rules of professional conduct. Such course shall be approved by the Board prior to the
8 licensee receiving continuing education credit for the course and shall be a minimum of 8 hours.
9 The eight hours shall be counted towards the 80 hours required pursuant to Section 87."

10 PROFESSIONAL STANDARDS

11 14. The standards of practice pertinent to this Accusation and the engagements at issue
12 include, without limitation:

13 A. Generally Accepted Auditing Standards (GAAS) issued by the American Institute of
14 Certified Public Accountants (AICPA). The ten general, field work, and reporting standards
15 outlined by GAAS (AU §150), which are interrelated, are discussed in the Statements on
16 Auditing Standards (SAS). The SAS are codified, by "AU" number, in the AICPA's Codification
17 of Statements on Auditing Standards. Among the SAS relevant herein, in addition to AU §150
18 which sets forth the Generally Accepted Auditing Standards are: AU §311.19 and §311.20
19 (Planning and Supervision – The Audit Plan), AU §316.83 (Consideration of Fraud in a Financial
20 Statement Audit – Documenting the Auditor's Consideration of Fraud), AU §329.01 (Analytical
21 Procedures), AU §330.04, §330.06 and §330.35 (The Confirmation Process – Definition of the
22 Confirmation Process, Relationship of the Confirmation Procedures to the Auditor's Assessment
23 of Audit Risk, and Confirmation of Accounts Receivable), AU §337.06 and §337.08 (Inquiry of a
24 Client's Lawyer Concerning Litigation, Claims and Assessments – Audit Procedures and Inquiry
25 of a Client's Lawyer), and AU §508.08 (Reports on Audited Financial Statements).

26 COST RECOVERY

27 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
28 administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 16. Section 5107, subdivision (a), of the Code states:

4 "The executive officer of the board may request the administrative law judge, as part of the
5 proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate
6 found to have committed a violation or violations of this chapter to pay to the board all reasonable
7 costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees.
8 The board shall not recover costs incurred at the administrative hearing."

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Gross Negligence)**

11 17. Respondents are subject to disciplinary action under Sections 5100, subdivision (c)
12 and 5156, in that Respondents committed gross negligence, in the performance of an audit for
13 S.A. Kitsinian, Inc. ("Kitsinian"), for the years ended December 31, 2006 and 2007. The audits
14 of Kitsinian contained extreme departures from generally accepted auditing standards and
15 regulatory requirements. The specific acts and standards of practice that were violated, that
16 collectively constitute gross negligence, are as follows:

17 a. The audit report for Kitsinian does not have a title that includes the word
18 "independent" as required by AU 508.08.

19 b. The audit report does not identify the relating Statement of Retained Earnings.

20 c. The audit report does not contain a statement that the financial statements are
21 the responsibility of the company's management.

22 d. The audit report does not identify the country of origin as the United States of
23 America (or U.S.) of the generally accepted auditing standards in both the opening and opinion
24 paragraphs, and does not contain a statement that the audit was conducted in accordance with
25 those standards.

26 e. Respondents issued an auditor's opinion for Kitsinian for the fiscal years
27 ending 2006 and 2007, when, the notes to the financial statements failed to meet professional
28 standards, as follows:

1 1. Note 4. The note on "Related Party Transactions" does not disclose in
2 the note nor in the Financial Statements the amount due from related parties as of the date of each
3 balance sheet presented;

4 2. Note 8. The note on "Commitments" does not disclose future minimum
5 lease payments in the aggregate and for each of the five succeeding years. The disclosure
6 provides only four years of future minimum lease payments without an aggregate (SFAS No. 57,
7 paragraph 2);

8 3. Balances of the Long-term Debt are presented in the Balance Sheet, but
9 there is no disclosure on the Long-term Debt (SFAS No. 47);

10 4. There is no disclosure for cash paid for interest and income taxes on the
11 Statement of Cash Flows or in the Notes to the Financial Statements (SFAS No. 95, paragraph
12 121);

13 5. Footnote on the financial statements indicates "See Accountant's
14 Compilation Report". The footnote states that the financial statements were not audited, yet an
15 audit report was issued. It should be stated as "See Independent Auditor's Report".

16 6. Note 4. The note on "Related Party Transactions" states "Outstanding
17 balances relating to these sales are presented as the receivable from related party in the
18 accompanying balance sheet". Receivable from related party of at least \$630,237 for the year
19 ended December 31, 2006 (as it is presented in the Statement of Cash Flows) is not presented in
20 the Balance Sheet.

21 7. Note 7. The note on Income Taxes for 2006 does not agree to the amount
22 shown on the financial statement, in that the note provides for income taxes of \$1,209 for 2006,
23 yet provision for income taxes presented on the Statement of Income and Retained Earnings
24 shows \$800 for 2006.

25 8. Note 6. The note on Property and Equipment for 2007 and 2006 does not
26 agree with the amount shown on the financial statement, in that the note shows \$273,433 for 2007
27 and \$355,299 for 2006, yet the Balance Sheet presents \$302,892 for 2007 and \$340,218 for 2006.
28

1 f. Respondents' working papers did not contain a written audit plan or any
2 documentation of analytical procedures being used (in conjunction with AU Section 150);

3 g. There is no documentation that Respondents sent a letter of audit inquiry to the
4 client's lawyer or obtained a response therefrom, as required by AU Sections 329.01, 337.06 and
5 337.08.

6 h. There is insufficient documentation showing that procedures were performed to
7 afford a reasonable basis for an opinion regarding the financial statements. There is insufficient
8 documentation that any audit evidence was gathered to confirm the accounts receivable balance
9 of \$2,569,603 when the total assets are \$4,511,457 as of December 31, 2007, as required by AU
10 Sections 150, 330.06 and 330.35.

11 i. Respondents failed to document his consideration of fraud in the audit, in that
12 there is no documentation showing that Respondents considered material misstatement(s) caused
13 by fraud while conducting the audit, as required by AU Sections 316.83.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Repeated Acts of Negligence)**

16 18. Respondents are subject to disciplinary action under Sections 5100, subdivision (c)
17 in that Respondents committed repeated acts of negligence, in the performance of an audit for
18 Kitsinian, for the years ended December 31, 2006 and 2007. The circumstances of this violation
19 are set forth in Paragraph 17(a)-(i), above, which is incorporated by reference as though set forth
20 fully.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Violation of Professional Standards)**

23 19. Respondents are subject to discipline pursuant to Code section 5100, subdivision (g),
24 in conjunction with California Code of Regulations, title 16, section 58, in that Respondents
25 willfully violated applicable professional standards. The circumstances of this violation are set
26 forth in Paragraph 17(a)-(i), above, which is incorporated by reference as though set forth fully.

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28 //

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Issue Reports in Accordance with Professional Standards)**

3 20. Respondents are subject to discipline pursuant to Code sections 5100, subdivision (g)
4 and 5062, in that Respondents issued auditor's reports that failed to conform to professional
5 standards, as more fully discussed in Paragraphs 17(a)-(i) and 19, above, which are incorporated
6 by reference as though set forth fully.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Lack of Sufficient Audit Documentation)**

9 21. Respondents are subject to disciplinary action under Sections 5100, subdivision (e)
10 and 5097, subdivisions (a)-(f), in that Respondents' audit documentation did not contain
11 sufficient documentation to enable a reviewer to understand the nature, timing, extent, and results
12 of the auditing procedures performed, evidence obtained, and conclusions reached, and under
13 California Board of Accountancy Regulations Section 68.2, in that respondent's audit
14 documentation did not include an index or guide which identified the components of the audit
15 documentation. Complainant incorporates by reference the allegations set forth in Paragraph
16 17(a)-(i) above, as though set forth fully.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 **(Lack of Continuing Professional Education Basic Requirements)**

19 22. Respondent Thomas Hart is subject to discipline pursuant to Code section 5100,
20 subdivision (g), and California Code of Regulations, title 16, Section 87 (d) and (e), and 87.7, in
21 that Respondent marked on his August 2006 and 2008 license renewal forms that he did not
22 complete the required 8-hour Professional Conduct and Ethics (PC&E) continuing education (CE)
23 course, and on the August 2008 license renewal form, that he did not complete the required 8-
24 hour fraud CE course. Respondent failed to complete 24 hours of Accounting and Auditing
25 (A&A) CE, eight hours of fraud CE, and eight hours of PC&E CE prior to his August 31, 2008
26 license renewal date. Respondent did not complete eight hours of PC&E CE until March 30,
27 2009, 24 hours of A&A CE until June 5, 2009, and eight hours of fraud CE until May 20, 2009.

1 Therefore, Respondent failed to timely complete the requisite continuing professional education
2 (CPE) specified by said regulations.

3 SEVENTH CAUSE FOR DISCIPLINE

4 (Practicing Without A Valid, Unexpired Accountancy License)

5 23. Respondent Thomas Hart is subject to disciplinary action under Sections 5050,
6 subdivision (a), in that he practiced public accountancy with an expired license from September
7 1, 2008 through March 28, 2009. Respondent acknowledged his license expired around August
8 31, 2008, and was not renewed until on or after March 29, 2009. However, the continuing
9 education deficiencies were not completed, corrected and effective until August 3, 2009.
10 Complainant incorporates by reference the allegations set forth in Paragraph 22 above, as though
11 set forth fully.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the California Board of Accountancy issue a decision:

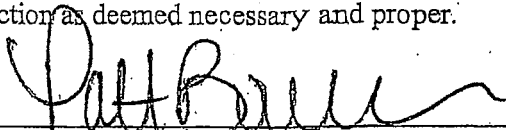
15 1. Revoking, suspending or otherwise imposing discipline upon Certified Public
16 Accountant License Number 56052, issued to Thomas Edward Hart;

17 2. Revoking, suspending or otherwise imposing discipline upon Certified Public
18 Accountancy Partnership Certificate No. 6935 issued to Highpoint Partners, LLP;

19 3. Ordering Thomas Edward Hart and Highpoint Partners, LLP, jointly and severally, to
20 pay the California Board of Accountancy the reasonable costs of the investigation and
21 enforcement of this case, pursuant to Business and Professions Code sections 125.3 and 5107;
22 and

23 4. Taking such other and further action as deemed necessary and proper.

24 DATED: 6/4/2012


PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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